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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,715	10/18/2004	Alfred Ruland	259939US0PCT	9295
22850	7590	09/04/2007		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER MRUK, BRIAN P	
			ART UNIT 1751	PAPER NUMBER
			NOTIFICATION DATE 09/04/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

Office Action Summary

Application No.

10/510,715

Applicant(s)

RULAND ET AL.

Examiner

Brian P. Mruk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 12 and 14-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 12 and 14-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office action is in response to Applicant's amendment filed June 14, 2007. Applicant has amended claims 11 and 15. Claim 13 has been cancelled. Currently, claims 11, 12 and 14-30 remain pending in the application.
2. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office action, Paper No. 20070216.
3. The rejection of claims 11-17 and 20-30 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Dahlgren et al, WO 94/11331, is withdrawn in view of applicant's amendments and remarks.
4. The rejection of claims 11-17 and 20-30 under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Gumbel et al, U.S. Patent No. 6,680,412, is withdrawn in view of applicant's amendments and remarks.
5. The rejection of claims 11, 12, 14-17 and 20-30 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hoffarth, U.S. Patent No. 5,705,476, is maintained for the reasons of record.

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6. The rejection of claims 18-19 under 35 U.S.C. 103(a) as being unpatentable over Dahlgren et al, WO 94/11331, in view of Clement et al, WO 01/04183, is withdrawn in view of applicant's amendments and remarks.

7. The rejection of claims 18-19 under 35 U.S.C. 103(a) as being unpatentable over Gumbel et al, U.S. Patent No. 6,680,412, in view of Clement et al, WO 01/04183, is withdrawn in view of applicant's amendments and remarks.

8. The rejection of claims 18-19 under 35 U.S.C. 103(a) as being unpatentable over Hoffarth, U.S. Patent No. 5,705,476, in view of Clement et al, WO 01/04183, is maintained for the reasons of record.

9. The rejection of claims 11-17 and 20-30 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 6,680,412 is withdrawn in view of applicant's amendments and remarks.

10. The provisional rejection of claims 11, 12 and 14-30 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9 of copending Application No. 10/575,760 is maintained for the reasons of record.

Response to Arguments

11. Applicant's arguments filed June 14, 2007 have been fully considered but they are not persuasive.

Applicant argues that Hoffarth, U.S. Patent No. 5,705,476, does not teach or suggest in general the specific alkoxylate of formula I, wherein a short chain propylene or butylene oxide moiety is directly connected to the alkyl radical, and a relatively long ethylene oxide moiety is connected to the propylene or butylene oxide moiety. However, the examiner respectfully disagrees. Specifically, Hoffarth clearly discloses an alkoxylate compound of formula Ic, wherein 1 mole of propylene oxide (i.e. p is 1) is connected directly to the alkyl radical, and 10 moles of ethylene oxide (i.e. q is 10) is connected to the propylene oxide moiety (see abstract and see col. 1, line 45-col. 2, line 20), as required in the instant claims. The examiner asserts that the 1 mole of propylene oxide and 10 moles of ethylene oxide for the compound in Ic are disclosed with sufficient specificity in the Hoffarth reference. Furthermore, the examiner asserts that Hoffarth clearly discloses that the alkyl radical (i.e. R¹) includes iso-decyl (see col. 2, lines 23-45 and col. 3, lines 1-11), as required in the instant claims.

Applicant further argues that copending Application No. 10/575,760 does not teach or suggest the specific alkoxylate compound required in the instant invention. However, the examiner respectfully disagrees. Specifically, the alkoxylate compound of formula I in copending Application No. 10/575,760 contains a propylene oxide moiety connected to an alkyl radical, followed by an ethylene oxide moiety, as required in the instant claims. Furthermore, copending Application No. 10/575,760 claims similar mole

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ratios of propylene oxide and ethylene oxide that are required in the instant claims.

Therefore, the examiner maintains that claims 11, 12 and 14-30 are an obvious formulation in view of claims 1-9 of copending Application No. 10/575,760.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Mon-Thurs (7:00AM-5:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Bpm

Brian P Mruk
February 16, 2007

Brian P. Mruk
Brian P Mruk
Primary Examiner
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